

City Council Building
Chattanooga, Tennessee
August 18, 2009
6:00 p.m.

Chairman Benson called the meeting of the Chattanooga Council to order with Councilmen Berz, Gilbert, Ladd, McGary, Murphy, Rico, Robinson and Scott present. City Attorney Mike McMahan, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilman McGary gave the invocation for the evening.

MINUTE APPROVAL

On motion of Councilman Rico, seconded by Councilman Murphy, the minutes of the previous meeting were approved as published and signed in open meeting.

AMEND CITY CODE: ZONING ORDINANCE

Chairman Benson stated all matters on tonight's agenda have been thoroughly discussed in Committee, noting that all Committee meetings begin at 3 p.m. each Tuesday and are open to the public.

On motion of Councilwoman Berz, seconded by Councilman Rice,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, TO INCLUDE SUBURBAN INFILL LOT
FRONTAGE AND SETBACK REGULATIONS AND URBAN INFILL LOT
COMPATIBILITY SUBDIVISION OPTION, DELETE FLAG LOT PROVISIONS,
AND CHANGE THE DEFINITION OF FRONTAGE**

Passed second and final reading and was signed in open meeting.

AMEND CITY CODE: ZONING ORDINANCE

2009-087: Eric Myers, Elemi Architects, LLC

On motion of Councilman Rico, seconded by Councilman McGary,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED AT 600 BLOCK OF HAMILTON AVENUE AND 640 NORTH MARKET STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAPS AND DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM R-3 RESIDENTIAL ZONE AND R-2 RESIDENTIAL ZONE TO RT-1 RESIDENTIAL TOWNHOUSE ZONE, SUBJECT TO CERTAIN CONDITIONS
passed second and final reading and was signed in open meeting.

CLOSE AND ABANDON

MR-2009-097: City of Chattanooga c/o Dan Thornton

On motion of Councilman McGary, seconded by Councilwoman Berz,
AN ORDINANCE CLOSING AND ABANDONING A RIGHT-OF-WAY OF A PORTION OF THE FORMER EASTERN RIGHT-OF-WAY OF THE 400 BLOCK OF CHERRY STREET AND THE SOUTHERN RIGHT-OF-WAY OF THE 100 BLOCK OF EAST 4TH STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAPS AND DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
passed second and final reading and was signed in open meeting.

AMEND CITY CODE: ZONING ORDINANCE

Councilmen Murphy and Rico made the initial motion to approve this Ordinance.

Councilwoman Berz stated that she would like to make an amendment to Section 38-527(c) to change the footage requirements to 750 feet rather than 500 feet. She made the motion to amend the Ordinance to reflect "750" feet; Councilman McGary seconded the motion, the motion carried.

City Attorney McMahan stated that the third version of this ordinance, Version "C", reflects this and has been placed at each Council member's station on the dais.

AMEND CITY CODE; ZONING ORDINANCE
(Continued)

On motion of Councilwoman Berz, seconded by Councilman McGary,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SECTIONS 38-2, 38-185, AND 38-
527, RELATIVE TO THE REGULATION OF NIGHTCLUBS**
passed first reading as amended; Councilmen Murphy, Rico and Robinson voted
"no".

GRANT

On motion of Councilwoman Robinson, seconded by Councilwoman Ladd,
**A RESOLUTION AUTHORIZING THE CHIEF OF POLICE TO APPLY FOR
AND ACCEPT A GRANT FROM THE CITY OF KNOXVILLE IN THE
AMOUNT OF TWO HUNDRED FORTY-SEVEN THOUSAND NINE HUNDRED
FIFTY-ONE AND 68/100 DOLLARS (\$247,951.68) TO BE USED TO FUND A
POSITION AND OVERTIME IN THE POLICE DEPARTMENT'S INTERNET
CRIMES AGAINST CHILDREN DIVISION FOR A PERIOD OF THREE (3)
YEARS WITH NO MATCHING FUNDS REQUIRED**
was adopted.

PAYMENT AUTHORIZATION

On motion of Councilman Rico, seconded by Councilwoman Robinson,
**A RESOLUTION AUTHORIZING PAYMENT TO THE TENNESSEE MUNICIPAL
LEAGUE FOR 2009-2010 ANNUAL MEMBERSHIP DUES IN THE AMOUNT
OF TWENTY-FOUR THOUSAND TWO HUNDRED FIFTY-TWO DOLLARS
(\$24,252.00)**
was adopted.

AGREEMENT

Councilman Murphy stated that he had a question based on something he
read in the paper and asked if he was to understand there is no tax abatement
given, even for the last year or so, because they are taking equipment out of
the city.

City Attorney McMahan responded "right", they are taking equipment out of
the city; that it is no longer in the city.

AGREEMENT (Continued)

Councilman Murphy stated that his question pertains to the past time they have gotten a tax break, if they have; that he understands there are two entities and one went bankrupt and asked Attorney Faires to clarify this. He stated that it is his understanding the original agreement was with Custom Baking and they went bankrupt; that at some point McKee took over the equipment and asked if they have been getting a tax break from the city since it has been owned by McKee, and if so if it is being returned because they are not getting a tax break from the city.

Atty. Kurt Faires clarified that McKee purchased the assets of Custom Baking from Bankruptcy Court and neither McKee nor any of its entities were ever bankrupt.

Councilman Murphy expressed thanks for Atty. Faires' response.

Atty. Faires continued by stating secondly, it was a five year abatement and was entering the fifth year; that four years were in place.

Councilman Murphy asked how long has McKee owned the equipment and if they were getting a tax abatement while it was owned.

Atty. Faires responded "yes"; that they have owned the equipment since 2004 and qualified for a five year tax abatement from the city and county.

Councilman Murphy asked if they are not completing the agreement but taking the equipment out of the city prior to the end of the agreement. Atty. Faires responded "correct".

Councilman Murphy then asked why the city should not receive back the abatement they received and get the benefit of the bargain; that the bargain was for the benefit to go until the end of the agreement and they are leaving before the end of the agreement.

Atty. Faires stated if the deal were struck today there would be a "clawback" agreement; however back in 2004 there was no "clawback" included. He stated this is a situation where McKee stepped in and tried to salvage a bankrupt operation; that it is a situation where they are down to 30 jobs now at that location. He stated the real property remains in the city and there is no tax abatement on the real property; that McKee employs over 3000 in the community, and all the people have been offered jobs at Collegedale.

AGREEMENT (Continued)

Councilman Murphy stated the end of it essentially seems to be the reason we are not getting it back is there is no "clawback" provision in the one we approved in the past.

Atty. Faires stated that it is his thought that is it; that they have gotten the benefit of four years out of five; that some PILOT's run 11-13 years and this one was relatively short. Councilman Murphy again responded thanks for Atty. Faires' responses.

Councilwoman Berz stated this was a five year deal but a pretty good one with four good years; that she did not want to misunderstand what Atty. Faires said.

Atty. Faires stated for example, some PILOT's are for 11-13 years and sometimes up to 30 years; that apparently this was a relatively short one by comparison. He stated it is not as if they came and got a 100 percent abatement for one year and left.

Councilwoman Berz stated that the only reason they are not paying back for the fifth year is because there was no "clawback" agreement then. Atty. Faires responded "yes"; that he has never seen anyone leave and have the "clawback" language apply.

Councilwoman Scott asked Mr. McMahan if the Council were to vote this down what would the end result be.

City Attorney McMahan stated the end result is that the complicating issue is both the city and county gave tax abatements on this project; that McKee has a perfect right to take it and move it out of Chattanooga; that there is nothing in the PILOT agreement we have with them to prevent them from doing so. He stated if they left the equipment in Chattanooga and it sat there without being used to manufacture bread or whatever, they would still have a tax abatement for five years but no productivity coming out; that we would get 50 percent on the equipment but no product. He stated moving the equipment and 30 employees to Collegedale, the community at-large will still be getting the bargain of the benefit with respect to the operation of the equipment. He stated if we did have a "clawback" we might ask for the abatement back because they did not keep their operation in town for five years; that in this situation there is not a thing we can do to get the fifth year taxes and they have a perfect right to move the equipment.

Councilwoman Scott asked if the City Attorney is saying if we do not approve this we would get the fifth year.

AGREEMENT (Continued)

Atty. Faires stated the equipment is already moved and the PILOT agreement does not require the equipment to remain; that it has been moved and it is a "done deal".

Councilwoman Scott nothing "there is nothing"...

City Attorney McMahan stated it is no longer taxable in Chattanooga.

Councilwoman Scott asked why the Council should do anything at all, period, even to discuss this, vote on it, whatever!

City Attorney McMahan stated the only benefit is to aid McKee in keeping the employment going; that the community at-large is not Chattanooga, per se.

Councilwoman Scott stated they have moved and taken the equipment ...

City Attorney McMahan stated the advantage is to Custom Baking; that McKee will be able to avoid paying half of the county's tax for the fifth year.

Atty. Faires responded "correct"; that under the PILOT agreement consent of all parties are required.

Councilwoman Robinson stated that it seems to her that at the end of the day this equipment is in Hamilton County and 30 citizens still have jobs. She stated it is almost academic in a way that the city is not the location for this equipment; that it has been kept in Hamilton County, is being used in Hamilton County, production is underway and people are at work. She stated that it is her thought it is "splitting hairs" to try to dock them the balance on one year of a PILOT.

Councilman Murphy stated that it does matter to the residents in his district that they have jobs close to where they live; that these are production jobs, not high wage jobs and the difference in cost to commute is mute these days as gas could go back to \$4.00 a gallon. He stated the County Commission can do whatever they want with McKee in abating taxes in reference to the fifth year of this PILOT, noting his disappointment it did not have the "clawback" provisions; that he has been assured by this Council it will be included in all the ones we do from now on. He stated PILOT's are offered to induce the location of businesses within this city and are done for a very particular reason; that they are not done with the anticipation as soon as a PILOT is over -- certainly not with the expectation or hope when the PILOT is over -- the company will up and leave.

AGREEMENT (Continued)

Councilman Murphy stated the idea is to induce a major investment, so major that a company essentially can not leave; that if they have an eight year PILOT they will not pay to move the equipment or plant they have built and that is the point of PILOT's; so they will be operating in the fifteenth and sixteenth years with no property tax abatement and it is very important for the public to understand this. He stated that is why he is glad we have "clawback" provisions, now; however, with regard to the equipment that is gone there is no "clawback" provision and it is not up to Mr. Faires to apologize for our error in not including it back there. He expressed understanding that Mr. Faires did not represent them at the time and advised him not to make apologies for his (Faires) client's advantage. He expressed agreement with Councilwoman Scott that it is up to the County to make this decision.

Atty. Faires stated that he wanted to clarify if any modifications are made to the PILOT agreement it requires the consent of all parties and the City of Chattanooga was a party to the agreement which that is why he is present seeking consent and why this decision is important.

Councilman Gilbert inquired as to when the "clawback" started; how many years back. City Attorney McMahan responded that it was before his time; that he knows they were doing it last year but does not know how far back before then.

Atty. Faires noted that Dan Johnson has indicated it has been since 2006 or 2007.

Councilman Gilbert stated since 2006 and beyond they are grandfathered in. City Attorney McMahan responded "yes" and anybody else; that most PILOT's are less than 20 years and there are still some out there that predate this.

Councilwoman Ladd stated that it appears we are not out of anything; that there was not an agreement to allow a tax discount because equipment was moved out of our jurisdiction; that it is simply we will agree as a party to the original agreement because it is written that way to allow that to continue if the county wishes to do it; that really the burden is on the county. She stated this is a no-cost issue, unless she missed the point; that it is just to be cooperative to allow the county to conduct business if they wish to with this piece of equipment and the ownership thereof. She stated she does not see that we are out of additional tax deductions here.

City Attorney McMahan stated Mayor Ramsey has already signed and the county wants to do this.

AGREEMENT (Continued)

Councilwoman Berz expressed agreement with Councilwoman Ladd and stated that it is her thought this is instructive and there may be some inaccurate information here. She stated the "clawback" did not come into "play" but does not negate the contract before the "clawback"; that it was a contract in consideration for "x, y, and z" to get a tax break. She stated when the Council held their education session on PILOT's, what was said was even though there was not a "clawback" it was a contract, so irrespective of the "clawback" there was one group that broke their contract. She stated that she does not see why there is a need to have a "clawback" because there is a contract; that if they perform as "x, y and z" they get the tax break and if they do not perform as "x, y and z" then they do not get a break. She stated this is instructive for us and it is just because the "clawback" is not in there; that it does not mean we have to fall over and continue the tax break. She again expressed her agreement with Councilwoman Ladd's statement that we are not out of anything and does not want the Council to make a carte blanche statement that could be incorrect relative to other situations where they have not fulfilled their bargain.

At this point Councilman Rico "called for the question".

On motion of Councilwoman Robinson, seconded by Councilman Rico,
**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN
ASSIGNMENT AND ASSUMPTION AGREEMENT REGARDING THE
CUSTOM BAKING COMPANY PROJECT PAYMENT IN LIEU OF AD
VALOREM TAX AGREEMENT**

was adopted; Councilmen Scott and Murphy voted "no".

**AMEND RESOLUTION 26031: ANNEXATION PUBLIC
HEARING - AREA 1B**

On motion of Councilwoman Robinson, seconded by Councilman Rico,
**A RESOLUTION TO AMEND RESOLUTION NO. 26031, ENCAPTIONED, "A
RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE
COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON SEPTEMBER 1, 2009,
THE ANNEXATION OF AREA 1B WHICH IS ADJACENT TO CUMMINGS
HIGHWAY WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF
CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS DESCRIBED
HEREIN BELOW AND AS SHOWN ON THE ATTACHED MAP,
CONTIGUOUS TO THE CITY LIMITS OF CHATTANOOGA," TO REVISE THE
PUBLIC HEARING DATE TO SEPTEMBER 15, 2009**

was adopted.

AMEND RESOLUTION 26032: ANNEXATION PUBLIC HEARING – AREA 4A

On motion of Councilwoman Robinson, seconded by Councilwoman Berz,
A RESOLUTION TO AMEND RESOLUTION NO. 26032, ENCAPTIONED, "A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON SEPTEMBER 3, 2009, THE ANNEXATION OF AREA 4A WHICH IS BETWEEN HIXSON PIKE AND MIDDLE VALLEY ROAD WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS DESCRIBED HEREIN BELOW AND AS SHOWN ON THE ATTACHED MAP, CONTIGUOUS TO THE CITY LIMITS OF CHATTANOOGA," TO REVISE THE PUBLIC HEARING DATE TO SEPTEMBER 17, 2009
was adopted.

AMEND RESOLUTION 26033: ANNEXATION PUBLIC HEARING – AREA 4C

On motion of Councilman Rico, seconded by Councilwoman Berz,
A RESOLUTION TO AMEND RESOLUTION NO. 26033, ENCAPTIONED, "A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON SEPTEMBER 3, 2009, THE ANNEXATION OF AREA 4C WHICH IS ADJACENT TO THE CURRENT CITY LIMITS OF HIXSON MARINA ROAD, BIG RIDGE ROAD, AND FAIRVIEW ROAD WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS DESCRIBED HEREIN BELOW AND AS SHOWN ON THE ATTACHED MAP, CONTIGUOUS TO THE CITY LIMITS OF CHATTANOOGA," TO REVISE THE PUBLIC HEARING DATE TO SEPTEMBER 17, 2009
was adopted.

ANNEXATION PUBLIC HEARING – AREA 8A

On motion of Councilwoman Berz, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON SEPTEMBER 22, 2009, THE ANNEXATION OF AREA 8A WHICH IS ADJACENT TO INTERSTATE 75 AND HUNTER ROAD WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS DESCRIBED HEREIN BELOW AND AS SHOWN ON THE ATTACHED MAP, CONTIGUOUS TO THE LIMITS OF CHATTANOOGA
was adopted.

ANNEXATION PUBLIC HEARING – AREA 8B

On motion of Councilwoman Berz, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON SEPTEMBER 22, 2009, THE ANNEXATION OF AREA 8B WHICH IS ADJACENT TO INTERSTATE 75 AND RELOCATION WAY WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS DESCRIBED HEREIN BELOW AND AS SHOWN ON THE ATTACHED MAP, CONTIGUOUS TO THE LIMITS OF CHATTANOOGA
was adopted.

ANNEXATION PUBLIC HEARING – AREA 9A

On motion of Councilwoman Berz, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON SEPTEMBER 22, 2009, THE ANNEXATION OF AREA 9A WHICH IS ADJACENT TO THE ENTERPRISE SOUTH PROPERTY AND THE RIGHT-OF-WAY OF INTERSTATE 75 WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS DESCRIBED HEREIN BELOW AND AS SHOWN ON THE ATTACHED MAP, CONTIGUOUS TO THE LIMITS OF CHATTANOOGA
was adopted

ANNEXATION PUBLIC HEARING – AREA 9B

On motion of Councilwoman Ladd seconded by Councilwoman Berz,
A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON SEPTEMBER 22, 2009, THE ANNEXATION OF AREA 9B WHICH IS ADJACENT TO OLD LEE HIGHWAY AND APISON PIKE WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS DESCRIBED HEREIN BELOW AND AS SHOWN ON THE ATTACHED MAP, CONTIGUOUS TO THE LIMITS OF CHATTANOOGA
was adopted.

ANNEXATION PUBLIC HEARING – AREA 11A

On motion of Councilman Rico, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON SEPTEMBER 24, 2009, THE ANNEXATION OF AREA 11A WHICH IS ADJACENT TO THE CURRENT CITY LIMITS OF MORRIS HILL ROAD, EAST BRAINERD ROAD, AND IGOU GAP ROAD WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS DESCRIBED HEREIN BELOW AND AS SHOWN ON THE ATTACHED MAP, CONTIGUOUS TO THE LIMITS OF CHATTANOOGA
was adopted.

ANNEXATION PUBLIC HEARING – AREA 10A

On motion of Councilman Rico, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON SEPTEMBER 29, 2009, THE ANNEXATION OF AREA 10A WHICH IS ADJACENT TO OLD LEE HIGHWAY IN HAMILTON COUNTY, TENNESSEE, AS DESCRIBED HEREIN BELOW AND AS SHOWN ON THE ATTACHED MAP, CONTIGUOUS TO THE LIMITS OF CHATTANOOGA
was adopted.

ANNEXATION PUBLIC HEARING – AREA 10B

On motion of Councilwoman Robinson, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON SEPTEMBER 29, 2009, THE ANNEXATION OF AREA 10B WHICH IS ADJACENT TO OLD LEE HIGHWAY AND APISON PIKE IN HAMILTON COUNTY, TENNESSEE, AS DESCRIBED HEREIN BELOW AND AS SHOWN ON THE ATTACHED MAP, CONTIGUOUS TO THE LIMITS OF CHATTANOOGA
was adopted.

OVERTIME

Overtime for the week ending August 13, 2009 totaled \$ 78,390.61.

PERSONNEL

The following personnel matters were reported for the various departments:

PARKS AND RECREATION DEPARTMENT:

- **ELLEN SHARP** – Resignation, Zookeeper 2, effective August 3, 2009.

CHATTANOOGA FIRE DEPARTMENT:

- **FRED MASSENGALE** – Promotion, Fire Equipment Specialist, Range 11, \$29,544.00 annually, effective August 14, 2009.
- **HAYES DAVIS, JR.** – Hire, Building Maintenance Mechanic 1, Range 9, \$26,798.00 annually, effective August 14, 2009.
- **DANULIUS USHER** – Demotion, Firefighter, Range F1A, \$36,630.92 annually, effective August 10, 2009.

PUBLIC WORKS DEPARTMENT:

- **ANGELIA STEVENSON** – Reinstatement, Administrative Support Assistant 1, City Wide Services, Range 4, \$32,558.00 annually, effective August 7, 2009.
- **CHARLES E. PATTON, JR.** – Resignation, Crew Worker 1, City Wide Services, effective August 11, 2009.
- **JIMMY L. YEARBY** – Suspension (6 days without pay), Crew Worker 1, City Wide Services, effective August 10-17, 2009.

CHATTANOOGA POLICE DEPARTMENT:

- **MICHAEL ORTEL** – Suspension (1 day without pay), Police Officer, effective July 28, 2009.
- **TETZEL TILLERY** – Suspension (3 days without pay), Police Officer, effective July 31, 2009.

PERSONNEL (Continued)

- **CYNTHIA CLARK** – Return to duty from Medical Leave, Police Service Technician, effective July 31, 2009.
- **CHRISTOPHER S. LAWSON** – Return to Duty from Military Leave, Police Officer 2, effective July 31, 2009.
- **APRIL BOLTON** – Termination, Police Officer 2, effective August 4, 2009.
- **DAVID L. YOUNG, JR.** – Military Leave, Police Officer, effective August 21 – November 6, 2009.
- **RALPH K. FREEMAN** – Termination, Police Officer, effective August 12, 2009.
- **JEFFREY T. GAINES** – Military Leave (Delayed reporting due to recently receiving military paper), Police Sergeant, effective May 26, 2009.

SUE MARSHALL

Adm. Steve Leach reported the passing for Sue Marshall, a 25 year employee of the Public Works Department. He stated she was a pioneer in the field of Geographic Information Systems (GIS) and was currently serving as a GIS Specialist in the Technical Information Center. He acknowledged that she would be missed by all who knew her.

Chairman Benson thanked Adm. Leach for making this part of the record and expressed condolences on behalf of the Council.

PURCHASE

On motion of Councilwoman Robinson, seconded by Councilman Rico, the following purchase was approved for use by the Mayor's Office, Information Services Division:

ERM/EXCALIBER INTEGRATED SYSTEMS, INC. (Best overall proposal)
R0121086

PURCHASE (Continued)

Blanket Contract for Port Security Camera System *(Total project installation cost for Phases One and Two will not exceed \$450,000.00 – Award contract to ERM C for the estimated amount not to exceed \$50,000 for the camera surveillance support services, and a contract for an estimated amount not to exceed \$400,000.00 to Excalibur for the camera equipment, accessories and installation. Joint proposal is best overall proposal meeting specifications for the city of Chattanooga.)*

\$ 50,000.00

\$400,000.00

HEARING: FREDRICKO MOORE

City Attorney McMahan stated the dates submitted last week by Mr. Moore’s Attorney, Scott Bennett, were not agreeable with Council members’ schedules and the date of October 12 has now been submitted.

Councilmen Ladd, McGary and Rico volunteered to serve on the panel for the October 12 hearing for Fredricko Moore beginning at 9 a.m., with Councilwoman Ladd serving as Chair.

COMMITTEES

Councilwoman Scott stated that the Economic Development Committee met today and heard a report from Friends of the Battlefield.

Councilman Rico stated that the **Public Works Committee will meet on Tuesday, August 25 immediately following the Agenda session.**

Councilman Murphy stated that the **Legal and Legislative Committee would meet immediately following the Budget Committee on Tuesday, August 25.**

Councilwoman Ladd reminded Council members of the **Public Safety Committee scheduled for Tuesday, September 1 immediately following the Agenda session.**

Councilwoman Berz scheduled a meeting of the **Budget, Finance and Personnel Committee for Tuesday, August 25 immediately following Public Works.** She stated the Committee would hear the quarterly report from the Fire and Police Pension Board and there would be an Audit Committee update; that Council members will have an opportunity to meet the new members of the Committee.

RECOGNITION OF MR. AND MRS. HAMMOND

Councilman Gilbert recognized the presence of Mr. and Mrs. Hammond, good neighbors from the Washington Hills area in his district.

NEXT WEEK'S AGENDA: AUGUST 25, 2009

The Council's agenda for August 25, 2009 is spread below:

Ordinances - Final Reading:

- a) An ordinance to amend Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, Sections 38-2, 38-185, and 38-527, relative to the regulation of nightclubs.

Ordinances – First Reading:

Resolutions:

- a) A resolution authorizing the execution of Change Order No. 1 (Final), relative to Contract No. E-08-003-202, 2008 City Sidewalk Requirements Contract with Yerbey Concrete Construction, Inc., which change order is to decrease the contract amount by \$12,738.82, for a revised contract amount of \$183,416.78, and to release the contingency amount of \$19,614.40. **(Deferred from 8/11/09.)**
- b) A resolution authorizing payment in the amount of \$159,000.00, **minus closing costs and attorneys' fees**, to Vijay Chaudhari and Joseph Chaudhari, LLC upon the City's simultaneous receipt of an executed Quitclaim Deed from Vijay Chaudhari and Joseph Chaudhari, LLC for the property conveyed by the City of Chattanooga to Vijay Chaudhari by Warranty Deed with the Possibility of Reverter dated December 20, 2005, and recorded in Deed Book 7794, Page 729, Register's office of Hamilton County, Tennessee, conveying a fee simple determinable interest in Parcels 146H-K-011, 146H-K-012, 146H-K-013, and 146H-K-013.01, and upon the City's simultaneous receipt of a partial release of Parcel Number 146H-K-012 from the lien of that certain Deed of Trust in favor of Cornerstone Community Bank recorded in Book 8180, Page 442, Register's office of Hamilton County, Tennessee. **(Revised.)**

NEXT WEEK'S AGENDA: AUGUST 25, 2009
(Continued)

- c) A resolution authorizing amendment of the City of Chattanooga 401(a) Retirement Plan to address **changed regulations under** the Internal Revenue Code, and authorizing the City Finance Officer to execute any and all documents necessary in connection with said amendment. **(Revised.)**

- d) A resolution authorizing Robert B. Doak to use temporarily the right-of-way for a signage at ten (10) locations for the Tennessee Civil War Trail, as shown on the drawing attached hereto and made a part hereof by reference, subject to certain conditions.

- e) A resolution authorizing the Administrator of the Department of Parks and Recreation to accept a proposal provided by Aquamarine Swimming Pool Company for the design, supply, and construction installation of a complete zero-depth water spraypark and filtration system at the Warner Park Pool in the amount of \$420,500.00 along with a project contingency of seven percent (7%) for a total amount not to exceed project amount of \$450,000.00, half of which will be provided by the State.

MIKE MALONE

Mike Malone of 1703 East 27th Street complimented the Council on the great work they doing. He stated a few years ago bad things started happening in his life and made reference to "certain parties" – some in the Chattanooga area recognized by people as the "power structure". He stated he was present to ask the Council to put together some type of investigating board along with the information he would supply to uncover some problems he has had that have been ongoing for years; that some people are getting mistreated and some people are being treated well. He stated it is time that something like this needs to happen; that he has been working on a website and other things along with documentation and everything from depositions to whatever to be posted to get this out. He stated he would not speak names; that he is talking about a couple men in a law firm, a very powerful retired banker and possibly a judge that maybe should have stepped down and did not a few years ago who have degraded him and kept him from being believable. He stated something like this is going to come up and they have been expecting it for awhile.

MIKE MALONE (Continued)

Mr. Malone stated his Council person is Councilman McGary and would like to sit down with him and go over some things to see if there is good enough reason to call a full meeting together to see if we could put together some parties from out of town or something to do some type of investigation to see if he is not on point on what he is saying tonight. He stated it is just not right; that his family has not been treated right and things have not been done right throughout the city – not this Council, but people have gotten their way when they should not have; that people can get things done because they have the biggest law firm in town.

Chairman Benson noted that Mr. Malone's three minute time had expired and expressed casual familiarity with what he (Malone) referenced. He suggested that this is something for the District Attorney to look into, not here at the Council.

Mr. Malone stated that he feels uncomfortable on the local level.

Chairman Benson asked that he talk with Councilman McGary following the Council meeting. Councilman McGary stated he would be happy to speak with Mr. Malone.

Mr. Malone stated he has been very sick and has been "down on his luck pretty bad".

Chairman Benson stated the Council does not have authority over this situation, again noting that he was a little bit familiar with the matter.

Mr. Malone stated that it is his thought it needs to start here.

CURTIS HAMMOND

Curtis Hammond of 461 Oakwood Drive stated that he lives directly across from the football field and noted that it is his thought five games are scheduled in that area. He stated he went to school there from 1959-1965 and they never played a local school and there were never two schools coming at one time to play; that the field has one set of bleachers and it has been stated there would be 2000-3000 people at the game. He stated that he loves sitting on his front porch watching the football games but is really afraid with the traffic and "stuff" going on and wants to be on record about this.

CURTIS HAMMOND (Continued)

Chairman Benson stated Mr. Hammond is talking about the East Hamilton High School using the field to play football.

Mr. Hammond stated that the field was never designed for this; that from 1959-1965 when they played at Booker T. School they played Howard and had to play at Engel Stadium.

Chairman Benson stated Councilman Gilbert has talked to Council members about this. He asked Adm. Zehnder if his department has given permission for the field's usage.

Adm. Larry Zehnder responded "not yet".

Mr. Hammond stated the Council should be invited to see what is going on and he does not want to be a "kill joy"!

Mr. Zehnder stated that he heard about this on yesterday and would be looking at the schedule and talking with Greta Hines and Councilman Gilbert to resolve the issue. He stated he really did not hear there was a problem until he heard it from Greta.

Chairman Benson asked if the city would be paid for the use of the field.

Adm. Zehnder responded that is one issues being discussed with Hamilton County.

Councilman Gilbert stated that he and Adm. Zehnder spoke about this and a meeting is scheduled for tomorrow. He stated traffic is a concern for the community and parking that many cars in the area. He stated one suggestion was to use the baseball field, church and school however a way to do it has not actually been worked out. He stated going into the discussion, the main concern is security of the area; that games have been there, noting Howard School had a good amount of security available.

Adm. Zehnder expressed concern about the facility not being able to accommodate that type of crowd, again noting that this is the first he heard there is a problem. He stated he talked with Councilman Gilbert and if there is an issue from the residents and neighborhood it is something they need to reevaluate when approval is given or deny the permit request. He stated he had not seen this request until yesterday when he heard about it and confirmed the matter would be evaluated and he would "get to the bottom of it".

CURTIS HAMMOND (Continued)

Chairman Benson expressed thanks to Adm. Zehnder, noting that his message was loud and clear!

APRIL COX

April Cox of 7087 Ely Ford Place was present in reference to annexation. She stated that she has read the *Annexation Handbook for Cities and Towns in Tennessee* and noted that it is not light reading. She stated that she wanted to make sure the Council is aware of two paragraphs that are important; that for her peace of mind she wanted the Council to know what it says. She read from *Page 10, Chapter 2 of the Annexation Study -- Essential to Determining Whether Annexation Makes Sense*: “Before proceeding with any annexation, a city should carefully examine the long-term costs and revenues that will be generated by the newly annexed area. This is not simply optional information; it is required by law. (See Chapter 7, Plan of Services) The potential net cost of a planned annexation should be a major factor in deciding whether to proceed, modify, postpone or abandon the action. This process is commonly referred to as an ‘annexation study,’ and it is crucial to the annexation decision process.” She reminded Council members that this year’s budget has yet to be presented to the Council and the city is currently operating on an emergency budget until September, which to her means the City Council does not know the current fiscal status of the city, whether it is good, bad or will break even. She stated not one knows the impact of Governor Bredesen’s \$224 million planned cuts for 2009-2010 on the City of Chattanooga and asked how the Council can approve a plan for annexation without information. She asked the Council to ask the Mayor’s office that question.

Chairman Benson thanked Ms. Cox for her comments and noted Council members are well aware of the current fiscal state of this city and are doing the best they can to balance it with the incoming revenue projected.

City Attorney McMahan stated that the purpose for the public hearings read tonight is to obtain public input regarding the plan of services to determine whether various departments will make presentations to the City Council about what it will take for them to be able to provide the services set forth in the plan of services. He stated after hearing the information from administrators and citizens the City Council will have to make a decision just as the book stated about whether it is in the best interest of the city and the areas to be annexed to do now, postpone or abandon. He stated the Council will make the decision after the public hearings are scheduled.

APRIL COX (Continued)

Ms. Cox asked if that means at the planned meetings some financial presentations will be made based on what the city anticipates the annexation to cost the city as well as the revenues.

City Attorney McMahan stated that will be included as part of the information.

Chairman Benson stated he could not speak for the whole Council, but does not want to annex anything unless it is shown to be cost effective to the city of Chattanooga.

Ms. Cox stated for her personally, now that she has gotten into the annexation issue and heard the Council mention this was for the "greater good", she is all for that. She stated she is very interested in seeing some of those cost projections so everyone is informed and it will be a "greater good" situation.

RACHEL CONN

Rachel Conn of 513 East Main Street stated she was present to talk about the burglary at her store at 1800 East Main. She stated a couple weeks ago, very early in the morning, the burglary was witnessed by some folks on the street; that she wanted the record for reflect that she called for the police and Officer Early came and was great. She stated the burglar was actually found and arrested along with the guy driving the car. She stated she wanted to know why the driver of the car was immediately let go; that she was told it was because he was just driving the car and was not part of the actual burglary; that she would have thought he would have been apprehended as an accomplice or accessory. She stated she does not know the rules of protocol on that and want to find out.

Chief Dodd was present and indicated he would meet with her after the meeting.

Chairman Benson stated Councilwoman Ladd is Committee Chair of the Safety Committee.

Councilwoman Ladd stated that she would speak with her, as well.

RECESS

Chairman Benson recessed the meeting of the Chattanooga Council until Wednesday, August 19, 2009 at 10 a.m., at which time the Council would assemble for a tour of the proposed annexation areas.

**(A LIST OF NAMES OF PERSONS IN ATTENDANCE
IS FILED WITH MINUTE MATERIAL OF THIS DATE)**

**City Council Building
Chattanooga, Tennessee
August 19, 2009
10:00 a.m.**

Council Chair Benson called the recessed meeting of the City Council to order with Council Members Peter Murphy, Pam Ladd, Deborah Scott, Sally Robinson, Andrae McGary, Carol Berz, and Manuel Rico present. Also present were Mayor Ron Littlefield, Chief of Staff Dan Johnson, Finance Officer Daisy Madison, Administrator of Public Works Steve Leach, Fire Chief Randy Parker, Lee Norris, City Attorney Michael A. McMahan, Phillip A. Noblett, Clifford Hightower, Lesley Onstott, Michelle Alexander, Levine Alexander, and Daniel Portwood.

The Council and all present boarded a bus and a van for a trip to view the ten areas under consideration for annexation. Councilman Murphy drove his own vehicle and followed. He left the procession after viewing Area 11A and rejoined the group at the Volkswagen site.

The first area visited was 1B. After a drive through of Area 1B, the City Council visited the vicinity of Aetna Mountain Road.

Council members then proceeded to Area 11A along Morris Hill Road.

The Council then visited Area 10B on Apison Pike and Woodland Drive. At the intersection near the entrance to the Summit Landfill property, the Council members exited their bus and met with Phyllis McKee, Alexis McKee, Vickie Keasley, and Ricky Keasley who expressed their concern about this area being annexed.

The City Council was then driven back to Woodland and Apison Pike to the Summit of Softball where a boxed lunch was provided by Anita Ebersole and Marie Chinery.

The Council then viewed Areas 9B, 10A, 8A, 8B, and 9A, respectively, by traveling on old Lee Highway on both sides of Interstate 75.

The City Council then went to the Enterprise South Industrial Park to view the Volkswagen site.

RECESSED SESSION: TOUR (Continued)

The Council proceeded to Ramsgate and Area 4A. Council also visited the Stonewall Farms Subdivision. This concluded the tour and the group returned to the City Council Building.

ADJOURNMENT

Chairman Benson adjourned the meeting of the City Council until Tuesday, August 25, 2009 at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL